

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Isaac Forman	Team: Squad #7	CCRB Case #: 201800180	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/01/2018 12:40 AM	Location of Incident: § 87(2)(b)	Precinct: 70	18 Mo. SOL 7/1/2019	EO SOL 7/1/2019	
Date/Time CV Reported Mon, 01/01/2018 12:53 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/08/2018 10:58 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Kimberly Lucas	17843	958844	070 PCT
2. POM Gregory Baluzy	24226	959470	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Vikash Singh	29050	951265	070 PCT
2. POM Miguel Salgado	09053	951197	070 PCT
3. POM Mohamed Mozeb	09587	959832	070 PCT
4. POM Steven Foley	00379	959640	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Kimberly Lucas	Abuse: Police Officer Kimberly Lucas drew her gun.	§ 87(2)(b)
B.POF Kimberly Lucas	Force: Police Officer Kimberly Lucas pointed her gun at § 87(2)(b)	§ 87(2)(b)
C.POF Kimberly Lucas	Abuse: Police Officer Kimberly Lucas refused to provide her name and shield number to § 87(2)(b)	§ 87(2)(b)
D.POM Gregory Baluzy	Abuse: Police Officer Gregory Baluzy entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
E.POM Gregory Baluzy	Force: Police Officer Gregory Baluzy pointed his gun at § 87(2)(b)	§ 87(2)(b)
F.POM Gregory Baluzy	Abuse: Police Officer Gregory Baluzy threatened § 87(2)(b) with the use of force.	§ 87(2)(b)

Case Summary

On January 1, 2018, § 87(2)(b) called 911 and was transferred to the IAB Command Center where she filed this complaint. Original Log #2018-0349 was generated and was received at the CCRB on January 8, 2018.

On January 1, 2018, at approximately 12:40am, officers responded to § 87(2)(b) in Brooklyn in regards to a complaint of harassment. Police Officer Kimberly Lucas, Police Officer Miguel Salgado, Police Officer Gregory Baluzy, and Police Officer Steven Foley, all of the 70th Precinct, went to § 87(2)(b)'s apartment. Prior to her opening the door, PO Lucas drew her firearm (**Allegation A: Abuse of Authority-** § 87(2)(g)). When § 87(2)(b) opened the door, PO Lucas allegedly pointed her gun at § 87(2)(b) (**Allegation B: Force-** § 87(2)(g)). PO Lucas put her gun down and § 87(2)(b) asked PO Lucas for her name and shield number. PO Lucas allegedly did not reply (**Allegation C: Abuse of Authority-** § 87(2)(g)). As § 87(2)(b) stepped away from her front door to turn her music down, PO Baluzy allegedly placed his foot inside the apartment to keep the door open (**Allegation D: Abuse of Authority-** § 87(2)(g)). § 87(2)(b) told PO Baluzy to take his foot out of the door and observed that PO Baluzy was allegedly pointing his gun at her (**Allegation E: Force-** § 87(2)(g)). § 87(2)(b) asked PO Baluzy if he was going to shoot her and PO Baluzy allegedly said yes (**Allegation F: Abuse of Authority-** § 87(2)(g)). The officers then left the location.

§ 87(2)(b) provided the investigation with a video file, which was taken by her web-camera. That camera malfunctioned and thus no interactions with the officers were captured.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Kimberly Lucas drew her gun.

Allegation (B) Force: Police Officer Kimberly Lucas pointed her gun at § 87(2)(b)

It is undisputed that PO Lucas drew her gun. § 87(2)(g)

§ 87(2)(b) testified that she was in her apartment watching television with music playing when she heard a loud banging on her front door. § 87(2)(b) looked through her peephole and observed two officers, identified by the investigation as PO Lucas and PO Baluzy. PO Lucas had her gun drawn and pointed at the door. § 87(2)(b) opened the door approximately half way and PO Lucas pointed her gun at § 87(2)(b) (BR 01).

The Event Information for Event #D18010100963 indicates that the male caller indicated to the operator that § 87(2)(b) threatened him. There are no further details of the threat in the Event Information (BR 02).

PO Lucas testified that they responded to § 87(2)(b) immediately after receiving a radio run for a past crime. PO Lucas couldn't recall if there was any mention of a weapon in the radio run. The officers initially spoke to the male complainant who alleged that § 87(2)(b) had threatened him when he went to ask her to turn down her music. PO Lucas was not certain when this interaction had occurred but understood it to be shortly before the male called 911. An officer asked the male if he had seen any weapons and the male said no but that she probably had kitchen knives. PO Lucas couldn't recall if the male had said if he had seen § 87(2)(b) with a knife. The

officers then approached § 87(2)(b)'s door and knocked. There was loud music playing and PO Lucas could not hear anything else inside the apartment. PO Lucas testified that she drew her gun after the sixth or seventh knock on the door. PO Lucas testified that she drew her gun because she feared for her safety and that of her partner because the male had mentioned the possibility that § 87(2)(b) might have a knife and because § 87(2)(b) was not readily answering the door. PO Lucas pointed her gun towards her right side directly at the ground. After five to seven minutes, § 87(2)(b) answered the door. Immediately after § 87(2)(b) opened the door, and she observed § 87(2)(b) to be an elderly female with nothing in her hands, PO Lucas holstered her weapon. She testified that at this point, she no longer feared for her safety or thought that § 87(2)(b) could be a threat. PO Lucas denied pointing her gun at § 87(2)(b) (BR 03).

None of the other officers interviewed could recall any officer drawing their firearms. Of those interviewed, only PO Baluzy testified that the male complainant mentioned § 87(2)(b) threatening him physically. PO Baluzy testified that the male had alleged that § 87(2)(b) had threatened to stab him. The male did not mention whether or not he saw weapons or knew § 87(2)(b) to be in possession of any weapons. PO Baluzy testified that when they approached the door, he did believe that it was possible that § 87(2)(b) might be in possession of a weapon (BR 04-08).

The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable. NYPD Patrol Guide, Procedure 221-01 (BR 09).

§ 87(2)(g)
[REDACTED]

[REDACTED]

Allegation (C) Abuse of Authority: Police Officer Kimberly Lucas refused to provide her name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that PO Lucas refused to provide her name and shield number upon request.

§ 87(2)(b) testified that PO Lucas told her to turn off her music. § 87(2)(b) asked PO Lucas why she had her gun pointed at her and PO Lucas put the gun back in her holster. PO Lucas then stepped to the side of the door. As she did, § 87(2)(b) stated to PO Lucas, "Hold on let me get a pen to write down your name and your number." PO Lucas did not say anything in response and

never provided her name or shield number. § 87(2)(b) believed that PO Lucas had heard the request because they were less than a foot from one another (BR 01).

PO Lucas testified that she told § 87(2)(b) to turn down her music and § 87(2)(b) replied that it was New Years and she could do what she wanted. PO Lucas couldn't recall what else § 87(2)(b) was saying. § 87(2)(b) never asked PO Lucas for her name or shield number and never indicated that she was going to get a pen to write that information down. PO Lucas denied refusing to provide her name or shield number to § 87(2)(b) (BR 03).

All the other officers interviewed, testified that § 87(2)(b) did not request any officers name or shield number and denied hearing any officer refuse to provide it. They also did not hear § 87(2)(b) indicate that she was going to retrieve a pen to write down anyone's information. Nor did § 87(2)(b) ever retrieve a pen (BR 04-08).

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Gregory Baluzy entered § 87(2)(b) § 87(2)(b), in Brooklyn.

§ 87(2)(b) alleged that PO Baluzy put his foot inside her apartment.

§ 87(2)(b) testified that she told the officers she was going to shut the music off and retrieve a pen. As she went to do so, PO Baluzy stepped in front of the door. While § 87(2)(b) was turning the music off, she observed PO Baluzy's left foot inside her apartment, holding the door open (BR 01).

PO Baluzy testified that, after briefly speaking to the male complainant, he knocked on § 87(2)(b)'s door. When § 87(2)(b) answered the door she was immediately irate. She was yelling, though PO Baluzy couldn't recall what she was yelling. PO Baluzy asked § 87(2)(b) to turn down her music. He testified that she did so but that she never stepped away from the door. He believed that the music was playing from near the door but never saw where the music was coming from so did not know for sure. § 87(2)(b) never left the door while the officers were present. PO Baluzy denied putting his foot into § 87(2)(b)'s apartment (BR 07).

None of the other officers interviewed could recall § 87(2)(b) stepping away from the door at any point. They denied observing any officer put their foot into § 87(2)(b)'s apartment to keep the door open (BR 03-08).

§ 87(2)(g)

Allegation (E) Force: Police Officer Gregory Baluzy pointed his gun at § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Gregory Baluzy threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that PO Baluzy pointed his gun at her and, when she asked if he was going to shoot her, said yes he was.

§ 87(2)(b) testified that when she observed PO Baluzy's foot inside her apartment, she also noticed that PO Baluzy had his gun drawn and pointed at her. § 87(2)(b) was still standing at her radio, which she testified has a directly sightline to the front door. § 87(2)(b) asked PO Baluzy, "Are you going to shoot me?" and PO Baluzy replied, "yes." All four officers then ran away from the door without saying anything further (BR 01).

As stated above, PO Baluzy testified that § 87(2)(b) never stepped away from the door while the officers were speaking to her. Once the music was turned down, the officers left. PO Baluzy denied drawing or pointing his gun at § 87(2)(b) never asked PO Baluzy if he was going to shoot her and PO Baluzy denied saying yes or threatening to shoot § 87(2)(b) in any other way (BR 07).

None of the officers interviewed observed any of their fellow officers draw their guns during this interaction. Nor did any of the officers hear § 87(2)(b) ask if any officer was going to shoot her. They also did not hear any officer affirm that he would shoot § 87(2)(b) (BR 03-08).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 10).
- PO Lucas has been a member-of-service for three years and this is the first CCRB complaint to which she has been a subject.
- PO Baluzy has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of May 5, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 11).
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Squad No.: 7

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date